

REMARKS

By entry of this amendment, claims 1-16 and 18-24 are pending in this application. Claims 1, 6, 8, 10, 11, 15 and 18 have been amended, and claim 17 has been canceled. In view of the foregoing amendments and following remarks, Applicant respectfully requests withdrawal of the non-final Office Action, and allowance of the application.

Uninitialed Form PTO-1449

Applicant notes with appreciation the return of the Form PTO-1449 submitted with the Information Disclosure Statement filed on September 20, 2001. However, Applicant notes that the Examiner's initials indicating that the documents were considered do not appear beside each document listed on the Form PTO-1449. See MPEP §609. Applicant's respectfully request that the Examiner initial beside each of the documents to positively indicate the Examiner's consideration of the provided documents.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1-24 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Miller et al., U.S. Patent No. 5,727,002 in view of Chalasani et al., U.S. Patent No. 5,274,782. The Applicant respectfully traverses.

Applicant's method and system is directed to reducing packet traffic on an I/O bus by limiting the number of acknowledgement packets that are sent over the I/O bus. For example, Applicant's independent claim 1 recites after sending said acknowledgement packet, transmitting said data packet across an I/O bus in said server environment...wherein the acknowledgement packet is sent without sending the acknowledgement packet across the I/O bus.

As admitted in the Office Action, Miller does not teach sending an acknowledgement packet to a stack mechanism without sending the acknowledgement packet across the I/O bus. The Office relies on the teachings of Chalasani to disclose this feature. Chalasani is directed to a data storing system that provides a response from a memory module to the processing element regarding the outcome of a storing

operation. Data is sent from a processing element through a first network to a memory module. The response containing an indication of the result of the storing operation is sent over a separate response network. See column 5, lines 18-25 of Chalasani.

Chalasani does not disclose or suggest that after sending said acknowledgement packet, transmitting the data packet across an I/O bus in said server environment as recited in claim 1. As explained above, Chalasani sends the acknowledgement packet after transmitting the data. This is the opposite operation of Applicant's claimed invention.

Applicant respectfully submits that neither Miller nor Chalasani, individually or in combination, disclose or suggest all of the features recited in Applicant's independent claim 1. Claim 1 is allowable over the applied prior art. Claims 2-7 depend from claim 1, and also recite allowable subject matter. Applicant respectfully requests withdrawal of the rejections of claims 1-7.

The Office has rejected claims 8-14 under the same rationale as applied to claims 1-7. Claim 8 recites that after the acknowledging, transmitting the data packet across an I/O bus to a component of said server; and storing information regarding said data packet at said component. As explained above with respect to claim 1, the combination of Miller and Chalasani does not disclose or suggest the above operation. Accordingly, claims 8-14 recite allowable subject matter. Applicant requests withdrawal of the rejection of claims 8-14.

Applicant's independent claim 15 is directed to apparatus for implementing Applicant's exemplary method. The Office asserted that this claim is "merely an apparatus of the method of operation defined in the method of claims 1-7."

However, even if the prior art device performs all the functions recited in the claim, the prior art cannot anticipate the claim if there is any structural difference. *In re Ruskin*, 347 F.2d 843, 146 USPQ 211 (CCPA 1965) as implicitly modified by *In re Donaldson*, 16 F.3d 1189, 29 USPQ2d 1845 (Fed. Cir. 1994). See also *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1951 (Fed. Cir. 1999), and MPEP §2114.

Claim 15 recites, among other features, a network interface card comprising a memory storing information related to a data packet. Neither Miller nor Chalasani,

individually or in combination, disclose or suggest a network interface card in combination with the other features recited in claim 15. Applicant respectfully submits that Applicant's claim 15 recites an apparatus that is structurally different from that recited in Miller and Chalasani, and, therefore, is allowable. Claims 16-21 depend from claim 15, and also are allowable. Applicant requests withdrawal of the rejections of claims 15-21.

Applicant's independent claim 22 is directed to a network interface card. Similar to claim 15, the Office asserted that claim 22 is "merely an apparatus of the method of operation defined in the method of claims 1-7." The Office alleges that Chalasani discloses an example of the claimed network interface card at column 5, lines 9-54 and column 6, lines 29-66. However, these citations merely disclose the transfer of a request from the processing element through a network to a memory module and the return of a response from the memory module through a response network to a processing element. There is no discussion or suggestion of, for example, a network interface card comprising a memory device to store information regarding said received data packets, as recited in claim 22. Furthermore, Miller does not mention a network interface card in its disclosure, and nor does Chalasani.

Accordingly, Applicant respectfully submits neither Miller nor Chalasani, individually or in combination, disclose or suggest a network interface card having the combination of features as recited in claim 22. Claims 23 and 24 depend from claim 22, and also are allowable. Applicant requests withdrawal of the rejections of claims 22-24.

Conclusion

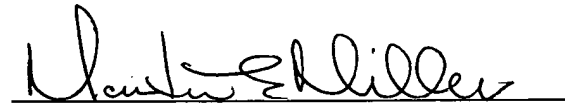
In light of the above discussion, Applicant respectfully submits that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

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Serial No. 09/893,888
Amendment dated February 13, 2008

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. 1.16 or 1.17 to Kenyon & Kenyon Deposit Account No. 11-0600. The Examiner is invited to contact the undersigned at (202) 220-4255 to discuss any matter concerning this application.

Respectfully submitted,

Date: February 8, 2008

A handwritten signature in black ink, appearing to read "Martin E. Miller", written over a horizontal line.

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